

Exhibit 7

1 UNITED STATES DISTRICT COURT

2 WESTERN DISTRICT OF NEW YORK

3 -----
4 **BLACK LOVE RESISTS IN THE RUST, ET AL.,**
5 **INDIVIDUALLY AND ON BEHALF OF A CLASS OF**
6 **ALL OTHERS SIMILARLY SITUATED,**

7 Plaintiffs,

8 -vs- 1:18-cv-00719-CCR

9 **CITY OF BUFFALO, N.Y., ET AL.,**

10 Defendants.

11
12 **EXAMINATION BEFORE TRIAL**

13 **OF MAYOR BYRON BROWN**

14 **APPEARING REMOTELY FROM**

15 **ERIE COUNTY, NEW YORK**

16
17 November 6th, 2023

18 At 9:00 a.m.

19 Pursuant to notice

20
21
22 REPORTED BY:

23 Rebecca L. DiBello, RPR, CSR (NY)

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MAYOR BYRON BROWN

1 A. Yes, I am.

2 Q. Are you able to approve or veto the City
3 budget?

4 A. Yes, I am.

5 Q. Are you able to defend the City in litigation
6 when the City is sued or officials are sued?

7 MR. SAHASRABUDHE: Objection to form.

8 Go ahead.

9 A. The City Corporation Counsel is the attorney
10 for the municipal corporation.

11 Q. Do you have a role in lawsuits that are filed
12 against the City as far as, for instance,
13 determining whether a settlement should be
14 approved?

15 MR. SAHASRABUDHE: Objection to form.

16 A. I do not.

17 Q. Okay. And in areas like executive orders is
18 there anyone who can veto your decision?

19 A. I have not proposed a lot of executive orders.
20 The executive orders that I have proposed have
21 not been objected to.

22 Q. Okay. Now, as mayor do you have any
23 responsibilities related to municipal

—MAYOR BYRON BROWN

1 agencies?

MR. SAHASRABUDHE : Form. 2

3 A. I have management responsibilities with
4 municipal agencies.

5 Q. When you say management authorities what do
6 you mean?

7 A. So ultimately the mayor is the chief executive
8 officer of the administration of City
9 government and I manage the work of the
10 commissioners that manage the various
11 departments of City government.

12 Q. Okay. Does that include the Buffalo Police
13 Department?

14 A. Yes, it does.

15 Q. Does it include the Buffalo Traffic Violations
16 Authority or BTVA?

17 A. Yes, it does.

18 Q. Does that include the Commission on Citizens
19 Rights and Community Relations?

20 A. Yes, it does.

21 Q. Does it include the Buffalo Municipal Housing
22 Authority Commission?

23 A. No, not directly. I appoint commissioners to

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1 Q. Okay. Now, we have been talking a bit about
2 the BTVA. When was it created?

3 A. I don't remember the exact date of creation as
4 we speak.

5 Q. If I said it began to administer tickets in
6 July of 2015, would that sound accurate to
7 you?

8 A. It could be accurate.

9 Q. What role did you have in the creation of the
10 BTVA, if any?

11 A. I participated in recommending the creation of
12 the agency.

13 Q. Who did you recommend the creation of the
14 agency to?

15 A. The City proposed the creation to the City
16 Council and to the state legislature.

17 Q. Was that at your recommendation?

18 A. Yes.

19 Q. Why did you recommend that the BTVA be
20 created?

21 A. We thought it was a more efficient way to
22 manage traffic violations in the City of
23 Buffalo. Other cities had similar agencies

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1 and we thought that that model would be more
2 efficient.

3 Q. And when you say efficient what do you mean?

4 A. I mean just in terms of knowing the number of
5 tickets that were written, being able to
6 determine how that process was managed and
7 removing a lot of the management and oversight
8 of that process from Albany.

9 Q. As part of your efforts to establish the BTVA
10 you did travel to Albany, correct?

11 A. I traveled to Albany periodically.

12 Q. And you spoke to lawmakers in Albany about the
13 need to create the BTVA?

14 A. Yes.

15 Q. Am I correct that prior to the creation of the
16 BTVA revenue for traffic tickets was sent to
17 state agencies and divided?

18 A. That's correct.

19 Q. And subsequent to the creation of the BTVA
20 ticket revenue from traffic tickets and
21 impounds goes directly to the City of Buffalo?

22 MR. SAHASRABUDHE: Form.

23 A. Could you repeat that?

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1 Q. Sure. I'll ask a different question. Am I
2 correct that since the creation of the BTVA
3 revenue from traffic tickets is no longer
4 divided with state agencies?

5 A. The distribution is greater to the City.

6 Q. And by greater what do you mean?

7 A. There's more revenue to the City.

8 Q. Okay. A significant increase in revenue?

9 MR. SAHASRABUDHE: Objection to form.

10 A. I don't know how significant it is.

11 Q. But since its creation the BTVA has generated
12 millions in revenue for the City of Buffalo?

13 MR. SAHASRABUDHE: Object to the form.

14 A. I don't know the answer to that.

15 Q. But you do prepare the City budget yearly?

16 A. Yes, I do.

17 MR. SAHASRABUDHE: Form.

18 Q. And that includes looking at proposed revenue
19 streams?

20 A. Yes, that does.

21 Q. Are you aware that the BTVA revenue lines has
22 been in the millions since 2015?

23 MR. SAHASRABUDHE: Form.

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1 A. Could you repeat that please.

2 Q. Sure. Are you aware that the revenue
3 allocation for the BTVA has been in excess of
4 a million since its creation?

5 A. That sounds accurate.

6 Q. Okay. Thank you.

7 So let's go back to talking about some
8 of your mayoral duties. Now, with respect to
9 the BPD, is it true you're able to make
10 appointments?

11 A. I appoint the commissioner of the Buffalo
12 Police Department.

13 Q. Do you require anyone else's approval for the
14 commissioner appointments?

15 A. Yes. All commissioners go through a
16 confirmation process with the City Council.

17 Q. And you have the authority to make the
18 recommendations for the appointment in the
19 first instance?

20 A. That is correct.

21 Q. Are you able to relieve appointees as well?

22 A. Yes, I am.

23 Q. And is cause required to relieve an appointee?

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1 Q. You were aware of that initiative?

2 A. I was aware of that initiative that there were
3 checkpoints in different parts of the city,
4 yes, I was.

5 Q. And you approved of the checkpoint initiative,
6 correct?

7 A. Again, I did not disagree with the traffic
8 enforcement initiative, including checkpoints.

9 Q. Earlier we were speaking about the
10 establishment of the Strike Force. I'd like
11 to direct you to what I believe would be Brown
12 Exhibit 2. I'm going to pull it on my screen
13 now. Let me know Mr. Brown, Mr. Mayor, if
14 you're able to see my screen. And you can let
15 me know when you'd like me to scroll down.

16 A. I see it.

17 Q. It's a two-page article so let me know when
18 you'd like me to scroll.

19 A. You can scroll.

20 Q. Okay.

21 A. You can scroll.

22 Q. That's more or less the end of the article.

23 A. Yep.

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1 called the City of Buffalo's Untapped Power to
2 Discipline Police Officers.

3 Are you able to see that on my screen,
4 Mayor Brown?

5 A. I am able to see it.

6 Q. This policy brief is several pages. We're
7 looking at part of the first page. I can make
8 it a little smaller so you can see it all or
9 most of it. Sorry. I'm cutting off the date
0 right now.

14 A. I have seen the document before.

15 Q. You have?

16 A. I have, yes.

17 Q. Okay. And you're familiar with some of the
18 conclusions of this report?

19 A. I am.

20 Q. Okay. Is this a report that you've discussed
21 with anyone within the Buffalo Police
22 Department?

23 A. Yes. It's been discussed with the management

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1 of the Buffalo Police Department. It's been
2 discussed with the management of the city's
3 law department. It's been discussed with
4 members of the City Council.

5 MR. SAHASRABUDHE: Just so you know, if
6 you've discussed this with corporation counsel
7 in a privileged discussion don't reveal it.

8 Q. Certainly you don't have to disclose any
9 conversations you've had with corporation
10 counsel, but let's turn to discussions you've
11 had about this policy brief with the
12 management of the Buffalo Police Department.

13 Who are you referring to when you say
14 the management of the police department?

15 A. This would be the police commissioner and
16 deputy commissioners.

17 Q. And what do those discussions consist of?

18 A. Basically we don't agree with this policy
19 brief. We don't believe that the Partnership
20 For Public Good is correct.

21 Q. With respect to what findings in particular?

22 A. Findings in general.

23 Q. So one of the findings, let's turn to page 3

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1 of this document, is that the Buffalo Common
2 Council expressly has the right to discipline
3 police.

4 Do you see that in the middle of the
5 page it says in 1914 that that was enacted?

6 MR. SAHASRABUDHE: Form.

7 A. It says in 1914 the New York State Legislature
8 enacted a charter for the City of Buffalo
9 expressly granting the Common Council the
10 right to discipline police. Title VII,
11 Article 1, Section 250 of that charter states
12 that there shall be a department of police
13 which shall be a subordinate department of the
14 Department of Public Safety, which doesn't
15 exist, and which shall have charge of all
16 police matters of the City. The government
17 and discipline of the Department shall be
18 prescribed by the Council in form of orders,
19 rules and regulations for such Department.

20 The section goes on to state the orders,
21 rules and regulations of the Council relating
22 to this Department shall have the same force
23 and effect as if herein enacted, provided they

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1 are not in conflict with the laws of the state
2 by the explicit language regarding discipline
3 in this act. The Legislature has expressly
4 committed disciplinary authority over a police
5 department to local officials in Buffalo.

6 So this is 1914. In a couple of months
7 we'll be in 1924. We'll be in 2024. I don't
8 know if the council ever used or attempted to
9 utilize this power and this itself references
10 a lot of things that could counteract this
11 power, which I doubt still exist in any way,
12 shape or form.

13 Q. So in your discussions about this article did
14 you form the opinion that local officials have
15 no ability to discipline officers consistent
16 with this article?

17 MR. SAHASRABUDHE: Objection to form.

18 A. I would say consistent with this article and
19 other laws that have been promulgated by New
20 York State and other legal rulings for the
21 police that have come down over the years, I'm
22 not aware of this article as a City Council --
23 as mayor, as a former City Council member, as

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1 a former City Council staffer. I don't know
2 if this ever been used or attempted to be used
3 and the City Council could certainly try to do
4 this.

5 This doesn't mention the administrative
6 branches of government. It doesn't mention
7 the mayor's office. This is wholly a power,
8 reading this, of the Common Council and if the
9 Council could implement this I would think
10 that they would do it or would try. I doubt
11 this has any basis in fact or ability in 2023.

12 Q. And did you conduct any investigation or
13 further research to confirm that theory?

14 A. I did not conduct any further research on this
15 1914 act of the state legislature pertaining
16 to the City Council, no. I did not research
17 it at all because it clearly as written here
18 is a power allegedly of the City Council, but
19 not of the mayor.

20 Q. Now, you stated a few minutes ago that you did
21 speak to the Common Council about this article
22 or this policy brief by the Partnership For
23 Public Good?

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1 A. Yes, that's correct. There are a number of
2 things in it. This is just one of them. I
3 think the Council has seen it. I don't manage
4 the City Council. I don't control the City
5 Council.

6 The City Council members are all
7 independently elected and the form of
8 government in the City of Buffalo is strong
9 mayor, strong council, so anything in this
10 document that the council wished to pursue,
11 they could try to pursue it and I could not
12 prevent them from doing so, nor would I try
13 to.

14 Q. What discussions did you have with the Common
15 Council about this article which again
16 purports to say that the City has untapped
17 powers to discipline police officers?

18 MR. SAHASRABUDHE: Object to the form.

19 A. Just with the few council members that I saw
20 that I read it and the administration review
21 is that it was not accurate.

22 Q. Who formed the opinion that it was not
23 accurate?

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1 MR. SAHASRABUDHE: Objection to form.

2 To the extent that's a privileged
3 attorney-client communication, don't reveal it.

4 A. I can't reveal all of that, but I would say
5 again that any of this -- if the council in
6 their review felt that anything in this policy
7 brief was doable they could implement it.

8 Q. Did you have any discussions with council
9 members encouraging them to see if they could
10 exercise additional powers concerning police
11 discipline?

12 A. No. I had no discussions with the Council
13 urging them to try to assume additional police
14 oversight powers.

15 Q. Why not?

16 MR. SAHASRABUDHE: Objection to form.

17 A. Because the council members are independently
18 elected. I don't manage the council. I don't
19 control the council and if there was anything
20 in this document that the council felt they
21 could implement or wanted to implement they
22 would and could do so.

23 Q. Is it your testimony that you never make

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1 representations to the Common Council about
2 policies they should adopt within the City of
3 Buffalo?

4 MR. SAHASRABUDHE: Objection to form.

5 A. I would make recommendations to the council on
6 policies that would be adopted that the
7 administrative branch of City government would
8 manage and carry out, but I don't make
9 recommendations to the City Council on things
10 that they should be doing.

11 Q. But your testimony today is that you have felt
12 tempered by the union when it comes to
13 engaging in police discipline and oversight
14 activity?

15 A. Could you repeat that?

16 Q. Earlier am I correct that you testified that
17 the police union has been an impediment to
18 adopt these policies related to police
19 discipline in the City of Buffalo?

20 A. I did say that to you and I am quoted on the
21 record numerous times as saying that.

22 Q. And you've been concerned about the ways that
23 the City's ability to engage in police

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1 oversight are limited by the union?

2 MR. SAHASRABUDHE: Object to the form.

3 A. I am concerned that I believe the union should
4 also want police oversight, should also want
5 the police commissioner to be able to manage
6 and properly discipline officers for
7 misconduct and while I think the union has
8 been an impediment, it's much more than the
9 union.

10 It's collective bargaining in New York
11 State. It's court cases that have been won by
12 unions, it's federal policy, so this is much
13 bigger than the union. While I think the
14 Buffalo PBA and its presidents have been
15 impediments, this is much bigger than the
16 union.

17 Q. Now, all that said, you did discuss this
18 article with the Common Council -- with
19 certain Common Council members, correct?

20 A. With certain council members, not in any great
21 detail or depth.

22 Q. But you never recommended that they explore
23 whether they have -- whether the Common

MAYOR BYRON BROWN

1 Council has the ability to engage in
2 additional oversight activity for the police?

3 MR. SAHASRABUDHE: Objection to form.

4 A. I never did recommend based on this article
5 that the council should explore additional
6 oversight powers over police and I do believe
7 that the council, if they believed there were
8 additional oversight powers that they actually
9 had, if they believe that this article was --
10 this policy brief was accurate, they would
11 move forward on some of the items contained in
12 it.

13 Q. Did you ever discuss with the Common Council
14 why they were not moving forward with
15 oversight proposals related to the BPD?

16 MR. SAHASRABUDHE: Objection to form.

17 A. The council actually has moved forward with
18 oversight proposals related to BPD. There is
19 a Common Council oversight committee that is
20 something that the council has implemented,
21 but never discussed why the council did or
22 didn't attempt to implement anything in this
23 policy brief.

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1 STATE OF NEW YORK)

2 COUNTY OF ERIE)

3

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I, Rebecca Lynne DiBello, CSR, RPR, Notary
Public, in and for the County of Erie, State of
New York, do hereby certify:

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12

That the witness whose testimony appears
hereinbefore was, before the commencement of
their testimony, duly sworn to testify the
truth, the whole truth and nothing but the
truth; that said testimony was taken pursuant
to notice at the time and place as herein set
forth; that said testimony was taken down by me
and thereafter transcribed into typewriting,
and I hereby certify the foregoing testimony is
a full, true and correct transcription of my
shorthand notes so taken.

13

14

15

I further certify that I am neither counsel
for nor related to any party to said action,
nor in anyway interested in the outcome
thereof.

16

17

18

IN WITNESS WHEREOF, I have hereunto
subscribed my name and affixed my seal this
19th day of November, 2023.

19

20



21

22

23

Rebecca Lynne DiBello, CSR (NY)
Notary Public - State of New York
No. 01D14897420
Qualified in Erie County
My commission expires 5/11/2027

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